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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
7

8 GENE A. ALLEN,

9 *Petitioner,*

10 vs.

11 STATE OF NEVADA, *et al.,*

12 *Respondents.*
13

2:12-cv-00664-JCM-VCF

ORDER

14 This transferred habeas matter under 28 U.S.C. § 2254 comes before the court for
15 initial review.

16 Petitioner Gene Allen seeks to challenge his April 7, 2003, judgment of conviction,
17 pursuant to a guilty plea, of one count each of sexual assault of a minor under the age of
18 sixteen and lewdness with a minor under the age of fourteen, in No. 01-C-177427 in Nevada's
19 Eighth Judicial District Court.

20 Petitioner has been a serial frivolous and vexatious filer in this court and a number of
21 other courts for a span of time approaching a decade. His serial vexatious filings have
22 include repeated successive habeas petitions and successive post-judgment motions in this
23 court as well as petitions filed in other federal courts that, similar to the present one, then are
24 transferred to this court.¹ The court of appeals repeatedly has rejected petitioner's attempts
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26 ¹ See, e.g., No. 3:11-cv-00742-ECR-VPC (petition transferred to court of appeals as application for
27 leave to file successive petition; application denied by court of appeals); No. 3:11-cv-00389-ECR-VPC
28 (dismissal of successive petition transferred from Central District of California; COA denied and rehearing
denied); No. 3:08-cv-0318-BES-RAM (dismissal of successive petition; COA denied; multiple meritless post-
judgment motions filed years after dismissal); No. 3:08-cv-00238-BES-VPC (dismissal of successive petition;
(continued...)

1 to pursue such successive petitions.² These multiple prior holdings by the court of appeals
 2 establish the law of the case with respect to the successive nature of similar petitions filed
 3 thereafter.

4 In the present petition, the second page of the introduction to the petition refers to a
 5 psychological review panel required in connection with petitioner's sexual offenses. However,
 6 all of the unnumbered grounds alleging claims in the petition challenge the underlying
 7 conviction and sentence. Following upon the law of the case established by multiple prior
 8 holdings by the court of appeals, the present petition therefore will be dismissed as a
 9 successive petition. Conducting a show-cause inquiry prior to entry of judgment would be
 10 both futile and a waste of judicial resources, given the multiple prior holdings establishing the

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 12 ¹(...continued)

13 COA denied); No. 3:07-cv-00433-ECR-VPC (dismissal of successive petition; COA denied); No. 2:07-cv-
 14 00226-PMP-LRL (dismissal of successive petition; multiple meritless post-judgment motions filed years after
 15 dismissal; restricted filer order entered); 3:06-cv-00079-LRH-VPC (dismissal of successive petition; COA
 16 denied and rehearing denied; meritless motion to vacate filed years after dismissal); No. 3:05-cv-00639-LRH-
 RAM (dismissal of successive petition transferred from Southern District of New York; multiple meritless post-
 judgment motions).

17 See also No. 3:07-cv-00098-LRH-RAM (multiple meritless post-judgment motions years after
 18 dismissal); No. 3:05-cv-00616-LRH-VPC (transfer from District of Columbia; multiple frivolous appeals and
 19 meritless post-judgment motions filed years after dismissal without prejudice; restricted filer order entered);
 20 No. 3:05-cv-00458-LRH-VPC (meritless post-judgment motion filed years after dismissal without prejudice);
 21 No. 3:05-cv-00184-LRH-VPC (frivolous appeal and multiple meritless post-judgment motions filed years after
 22 dismissal without prejudice); No. 3:04-cv-00189-ECR-VPC (multiple meritless post-judgment motions after
 23 non-merits dismissal); No. 2:03-cv-00770-KJD-PAL (untimely appeal and meritless motions to vacate filed
 24 years after dismissal without prejudice); No. 2:03-cv-00673-PMP-LRL (multiple meritless motions to vacate
 25 filed years after voluntary dismissal); No. 3:03-cv-00692-LRH-RAM (frivolous appeal and multiple meritless
 post-judgment motions filed years after dismissal for lack of exhaustion; restricted filer order entered); No.
 3:03-cv-00672-LRH-RAM (multiple meritless post-judgment motions filed years after dismissal; restricted filer
 order entered); No. 3:03-cv-00541-ECR-VPC (frivolous appeal and multiple meritless post-judgment motions
 filed years after dismissal without prejudice); No. 3:03-cv-00519-ECR-RAM (frivolous appeal and multiple
 meritless post-judgment motions filed years after dismissal without prejudice); No. 3:03-cv-00465-LRH-RAM
 (multiple meritless motions to vacate filed years after voluntary dismissal); No. 3:03-cv-00414-ECR-VPC
 (frivolous appeal and multiple meritless post-judgment motions filed years after dismissal for lack of
 exhaustion).

26 ²See, e.g., No. 09-80097 (denial of application for leave to file a second or successive petition and
 27 denying COA from dismissal in second action); No. 08-75044 (denial of application for leave to file a second
 28 or successive petition); No. 08-74617 (same); No. 08-70238 (same); No. 08-17654 (denial of COA); No. 08-
 17653 (same); No. 08-15815 (same); No. 07-16386 (denial of COA; denial of rehearing); No. 06-75599
 (denial of application for leave to file a second or successive petition); No. 05-71865 (same).

1 law of the case and petitioner's long history of vexatious abuse of the judicial system, which
2 continues with the present action.

3 IT THEREFORE IS ORDERED that the petition shall be DISMISSED without prejudice
4 as a successive petition.³


5 IT FURTHER IS ORDERED that a certificate of appealability is DENIED, following
6 upon the multiple prior denials of a certificate of appealability by the court of appeals from
7 dismissals of prior second or successive petitions by petitioner and, further, the multiple
8 denials of applications for leave to file a second or successive petition by the court of appeals.
9 See text, *supra*, at 1-2 & n.2.

10 IT FURTHER IS ORDERED that all pending motions, including #12 and any other
11 motions pending at entry of judgment, are DENIED.

12 IT FURTHER IS ORDERED that the clerk of court shall designate petitioner on the
13 docket as a restricted filer and shall return all further papers submitted by petitioner herein
14 unfiled, except for a notice of appeal.

15 The clerk shall enter final judgment accordingly, dismissing this action without
16 prejudice.

17 DATED: January 31, 2013.

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20 JAMES C. MAHAN
21 United States District Judge
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28 ³The state previously was dismissed by #7.